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Attorneys for
Robert S. Whitmore, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re

RAYMOND HOWARD,

Debtor.

ROBERT S. WHITMORE,
Chapter 7 Trustee,

Plaintiff,

vs.

PHYL ROBINSON,

Defendant.

CASE NO. 6:19-bk-12423-WJ

ADV. NO.

Chapter 7

**COMPLAINT TO AVOID PREFERENTIAL
TRANSFERS UNDER BANKRUPTCY CODE
§547 AND RECOVER AVOIDED TRANSFERS
UNDER BANKRUPTCY CODE §550**

Plaintiff Robert S. Whitmore, Chapter 7 Trustee of the estate of Raymond Howard complains of
Phyl Robinson as follows:

STATEMENT OF STANDING, JURISDICTION AND VENUE

1. On March 25, 2019, Raymond Howard (“Debtor”) filed a voluntary petition for relief
under Chapter 7 of the Bankruptcy Code, case number 6:19-bk-12423-WJ.

2. Robert S. Whitmore is the duly appointed, qualified and acting Chapter 7 trustee of the above-encaptioned bankruptcy estate (“Trustee” or “Plaintiff”).

3. This adversary proceeding is filed pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. §§547 and 550.

4. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§1334 and 157 in that this action arises in and relates to the Debtor’s bankruptcy case pending in the United States Bankruptcy Court for the Central District of California, Riverside Division, case number 6:19-bk-12423-WJ.

5. This proceeding is a core proceeding under 28 U.S.C. §§157(b)(2)(A), (E), (F) and (O). The Trustee consents to the Bankruptcy Court’s jurisdiction to enter findings of fact and conclusions of law to the extent the Court may rule on any non-core issues in this proceeding.

6. Venue properly lies in this judicial district in that this adversary proceeding arises under Title 11 of the United States Code as provided in 28 U.S.C. §§1409 and 1391.

7. Trustee is informed and believes and thereon alleges that Phyl Robinson (“Robinson” or “Defendant”) resides in and is doing business in the Central District of California.

FIRST CLAIM FOR RELIEF

(Avoidance of Preferential Treatment)

(11 U.S.C. §§547 and 550)

8. Trustee hereby realleges and incorporates by this reference paragraphs 1 through 7 of the Complaint, inclusive, as though fully set forth herein.

9. Trustee is informed and believes and on that basis alleges, that within 90 days prior to the date of the filing of the petition, property of the Debtor was transferred to Defendant as a result of at least one levy in an amount as yet ascertained, but totaling a minimum amount of approximately \$14,346.20 (“Transfers”).

10. Trustee is informed and believes and on that basis alleges, that if the Debtor was obligated to pay Defendant, Defendant was a creditor of Debtor at the time of the above-referenced Transfers.

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12. Trustee is informed and believes and on that basis alleges, that if the Debtor was obligated to pay Defendant, the above-referenced Transfers were for the benefit of Defendant in her capacity as creditor of Debtor.

13. Trustee is informed and believes and on that basis alleges, that if the Debtor was obligated to pay Defendant, the above-referenced Transfers were made for or on account of an antecedent debt owed to Defendant.

14. Debtor was insolvent at the time of the Transfers.

15. The effect of the Transfers was to enable Defendant to obtain a greater percentage of her debt than she would have received in this case under Chapter 7 of the Bankruptcy Code if the Transfers had not been made and such Defendant had received payment of such debt to the extent provided by the Bankruptcy Code.

16. By reason of the foregoing, pursuant to 11 U.S.C. §547, the Trustee may avoid each such transfer, and pursuant to 11 U.S.C. §550(d), the Trustee may recover, for the benefit of the estate, the property transferred or its equivalent value from Defendant.

WHEREFORE, Trustee prays for judgment as follows:

ON ALL CLAIMS FOR RELIEF

1. Pursuant to 11 U.S.C. §§547 and 550, that the Transfers, or their equivalent value, made to Defendant be avoided and recovered by the Trustee;

2. That Defendant pay Trustee's costs and disbursements, including reasonable attorneys' fees with respect to this action;

3. For interest on the amounts recovered from Defendant;

4. For pre-judgment interest as allowed by law; and

5. For such other and further relief as this Court deems just and proper.

LAW OFFICE OF HYDEE J. RIGGS

Dated: March 15, 2021

/s/ Hydee J. Riggs

HYDEE J. RIGGS

Attorneys for Robert S. Whitmore,
Chapter 7 Trustee

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS Robert Whitmore, Chapter 7 Trustee	DEFENDANTS Phyl Robinson			
ATTORNEYS (Firm Name, Address, and Telephone No.) Hydee J. Riggs - Law Office of Hydee J. Riggs 34145 Pacific Coast Highway, Suite 359, Dana Point, CA 92629 Telephone: (949) 335-5440	ATTORNEYS (If Known)			
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) COMPLAINT TO AVOID PREFERENTIAL TRANSFERS UNDER BANKRUPTCY CODE §547 AND RECOVER AVOIDED TRANSFERS UNDER BANKRUPTCY CODE §550				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input checked="" type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: right;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) </td> </tr> </table>			FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input checked="" type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: right;">(continued next column)</div>	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23			
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$			
Other Relief Sought				

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Raymond Howard		BANKRUPTCY CASE NO. 6:19-bk-12423-WJ
DISTRICT IN WHICH CASE IS PENDING Central District of California	DIVISION OFFICE Riverside	NAME OF JUDGE Wayne Johnson
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Hydee J. Riggs		
DATE March 15, 2021	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Hydee J. Riggs	

INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.